



February 1, 2005

SENATE BILL No. 341

DIGEST OF SB 341 (Updated January 31, 2005 12:18 pm - DI 102)

Citations Affected: IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-12; IC 3-13; IC 3-14; IC 20-3; IC 20-4; noncode.

Synopsis: Various election law matters. Authorizes imposition of civil penalties on precinct election officers who fail to perform their duties. Establishes a certified election worker program for education of precinct election officers and county election officials. Resolves a conflict in current law regarding voting in municipal elections by voters who no longer reside in a municipality. Permits a county voter registration office to update a voter's registration record by examining the poll list after election day to determine if certain first time voters have submitted documentation required under the Help America Vote Act. Specifies when affidavits executed by certain challenged voters are required to be forwarded by the county election board to the prosecuting attorney. Makes various changes to election law relating to the following: (1) Appeal of county election board decisions. (2) Precinct election officer status, training, and duties. (3) Identification of challengers, watchers, and pollbook holders. (4) Town convention procedures. (5) Listing of names of candidates on the ballot. (6) Requirements for the numbers of ballots provided to precincts. (7) Handling of ballots and other election materials. (8) Location of precincts. (9) Preparation of the polls. (10) Location of challengers. (11) Resolution of tie votes in elections for certain offices. (12) Filling candidate vacancies. (13) Filing petitions of nomination for school board elections. Repeals obsolete provisions.

Effective: Upon passage; July 1, 2005.

Lawson C

January 11, 2005, read first time and referred to Committee on Elections and Civic Affairs.
January 31, 2005, amended, reported favorably — Do Pass.

SB 341—LS 7228/DI 75+



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February 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 341

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-6-5-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who is a
3 candidate for elected office or ~~after December 31, 2004~~, a member of
4 a candidate's committee may not be appointed as:
5 (1) a member of a county election board;
6 (2) a proxy of record for a member under section 4.5 of this
7 chapter; or
8 (3) an alternate proxy of record for a member under section 4.5 of
9 this chapter.
10 (b) If an appointed member, a proxy, or an alternate proxy becomes:
11 (1) a candidate for elected office; or
12 (2) ~~after December 31, 2004~~, a member of a candidate's
13 committee;
14 the member, proxy, or alternate proxy may not continue to serve on the
15 county election board.
16 (c) An appointed member, a proxy, or an alternate proxy may not
17 hold elected office while serving on the county election board.

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(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 2. IC 3-6-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34. Except as expressly provided by statute, an appeal may be taken from a decision of a county election board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

SECTION 3. IC 3-6-5-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 35. (a) An individual who knowingly, recklessly, or negligently fails to perform a duty as a precinct election officer required by this title is subject to a civil penalty under this section in addition to any other penalty imposed.**

(b) If the county election board determines, by unanimous vote of the entire membership of the board, that an individual serving as a precinct election officer has failed to perform a duty required by this title, the board shall assess the individual a civil penalty of not more than five hundred dollars (\$500).

(c) A civil penalty assessed under this section may be deducted from any compensation that the individual may otherwise be entitled to under IC 3-6-6.

SECTION 4. IC 3-6-5.2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) This section applies after December 31, 2004. A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.**

(b) If an appointed member becomes a:

- (1) candidate for elected office; or**
- (2) member of a candidate's committee;**

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 5. IC 3-6-5.2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. Except as expressly provided by statute, an appeal may be taken from a decision of the board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

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SECTION 6. IC 3-6-5.4-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) ~~This section applies after December 31, 2004.~~ A person who is a candidate for elected office or a member of a candidate's committee may not be appointed as a member of the board.

(b) If an appointed member becomes a:

(1) candidate for elected office; or

(2) member of a candidate's committee;

the member may not continue to serve on the board.

(c) An appointed member may not hold elected office while a member of the board.

(d) The circuit court clerk may not be a member of a candidate's committee other than the clerk's own candidate's committee.

SECTION 7. IC 3-6-5.4-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. Except as expressly provided by statute, an appeal may be taken from a decision of the board to the circuit court. An appeal taken under this section must be filed not later than thirty (30) days after the board makes the decision subject to the appeal.**

SECTION 8. IC 3-6-6-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) When the county election board (or a precinct election board acting on behalf of the county election board) appoints a precinct election officer and the individual accepts the appointment by swearing the oath of office required under this chapter, a contract is created between the county election board and the individual in which the county election board retains the services of the precinct election officer as an independent contractor.

(b) The appointment of a precinct election officer expires when the county election board completes the canvass of the precinct under IC 3-12-4.

(c) For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, the position of precinct election officer is not a lucrative office.

SECTION 9. IC 3-6-6-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) The county election board by unanimous vote of the entire membership of the board may permit an individual who is not a voter to serve as any precinct election officer (other than inspector), or to assist a precinct election officer, if the individual satisfies all the following:

(1) The individual is at least sixteen (16) years of age but not more than seventeen (17) years of age.

(2) The individual is a citizen of the United States.

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(3) The individual is a resident of the county.

(4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.

(5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student.

(6) The individual has the approval of the individual's parent or legal guardian.

(7) The individual has satisfactorily completed any training required by the county election board.

(8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) ~~After January 1, 2004,~~ An individual appointed to a precinct election office or assistant under this section:

(1) must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602; and

(2) while serving as a precinct election officer or assistant:

(A) is not required to obtain an employment certificate under IC 20-8.1-4; or

(B) is not subject to the limitations on time and duration of employment under:

(i) IC 20-8.1-4-20; or

(ii) IC 20-8.1-4-21.

SECTION 10. IC 3-6-6-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40. (a) The county election board shall conduct a training and educational meeting for precinct election officers.

(b) The board shall require inspectors to attend the meeting and may require other precinct election officers to attend the meeting. **The board shall maintain a record of the attendance of each individual at the meeting conducted under this subsection.**

(c) The meeting required under this section must include information:

(1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; and

(2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

(d) The meeting required by this section must be held not later than the day before election day.

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(e) If an individual:

(1) is appointed as a precinct election officer after the training and educational meeting conducted under this section; or

(2) demonstrates to the county election board that the individual was unable to attend the meeting due to good cause;

the county election board may authorize the individual to serve as a precinct election officer if the county election board determines that there is insufficient time to conduct the training required by this section.

SECTION 11. IC 3-6-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 6.5. Certified Election Worker Program

Sec. 1. The certified election worker program is established.

Sec. 2. The program must consist of courses in several aspects of precinct election administration, including the following:

(1) The duties of precinct election officers and county election officials.

(2) The laws governing activity permitted and prohibited in polling places.

(3) The laws and procedures governing the operation of voting systems.

(4) The laws governing voter registration, absentee ballots, provisional ballots, and the tabulation of ballots.

(5) Effective communication and problem solving techniques.

Sec. 3. The secretary of state:

(1) shall administer the program; and

(2) may establish procedures and requirements for the certification of an individual who satisfactorily completes the program.

Sec. 4. The designation of an individual as a certified election worker expires January 1 of the fourth year following the individual's certification. The individual's certification may be renewed by the secretary of state after compliance with the requirements for renewal established under this chapter.

SECTION 12. IC 3-6-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Each political party or independent candidate may appoint challengers and pollbook holders for each precinct in which the political party or independent candidate is on the ballot.

(b) This subsection applies to a public question that is submitted to the electorate. A county election board may appoint challengers and

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pollbook holders if a petition requesting the appointment is filed with the board. The petition must be signed by:

(1) the chairman of a political action committee organized under IC 3-9 to support or oppose the approval of the public question; and

(2) at least the number of voters equal to two percent (2%) of the votes cast in the last election for secretary of state in the county.

(c) A challenger must be at least eighteen (18) years of age.

(d) The county election board, county chairman, other local chairman of the party, or independent candidate:

(1) must make the appointments in writing; and

(2) shall issue one (1) identification card for each person appointed under this section.

(e) Each political party or independent candidate described in subsection (a) or a political action committee described in subsection (b) may have only one (1) challenger and one (1) pollbook holder present at each precinct's polls at any time during election day. The challenger and pollbook holder present at the polls must possess an identification card issued under subsection (d).

(f) The identification card issued under subsection (d) must clearly state the following:

(1) The status of the individual as an appointed challenger or pollbook holder.

(2) The name of the individual serving as a challenger or pollbook holder.

(3) The name of the person who appointed the individual as a challenger or pollbook holder, and whether the person is a political party, an independent candidate, or a county election board.

(4) If the challenger or pollbook holder has been appointed by a political party, the name of the political party.

SECTION 13. IC 3-6-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A pollbook holder **or a challenger** appointed under this chapter is entitled to do the following:

(1) Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until the polls close.

(2) Enter, leave, and reenter the polls at any time on election day.

(b) A pollbook holder **or a challenger** is subject to the orders of the board while in the polls.

(c) If demanded by a member of the precinct election board, a pollbook holder **or a challenger** shall produce the identification card

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issued under section 1(d) of this chapter.

SECTION 14. IC 3-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A watcher present at the polls must possess an identification card issued under this section and present the card if demanded by a member of the precinct election board.

(b) The county election board, county chairman, or chairman of the committee of the independent candidate for a federal or a state office:

(1) must appoint each watcher in writing; and

(2) shall issue one (1) watcher identification card for each person appointed as a watcher.

(c) The identification card must be signed by the chairman of the county election board, county chairman of the party, or chairman of the committee of the independent candidate for a federal or a state office that the watcher represents.

(d) The identification card described in subsection (a) must clearly state the following:

(1) The status of the individual as an appointed watcher.

(2) The name of the individual serving as a watcher.

(3) The name of the person who appointed the individual as a watcher.

(4) If the individual has been appointed as a watcher by a political party, the name of the political party.

SECTION 15. IC 3-6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. When the attorney-in-fact has certified the names of the watchers in writing under section 4 of this chapter to the circuit court clerk, the clerk shall immediately issue certificates to the persons named. The certificates entitle the watchers to go to the precincts designated in the statement. Each watcher's credentials must state the **following:**

(1) The name of the attorney-in-fact who certified the watcher to the clerk.

(2) The status of the individual as a watcher appointed under this chapter.

(3) The name of the individual serving as a watcher.

(4) If the watcher is acting on behalf of a school board candidate, or a group of political party candidates, the name of the school board candidate or political party whose candidates have petitioned for watchers under this chapter.

SECTION 16. IC 3-6-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each person who acts as a watcher under this chapter must obtain a watcher

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identification card from the county election board. **The identification card issued under this subsection must clearly state the following:**

- (1) The status of the individual as an appointed watcher.**
- (2) The name of the individual serving as a watcher.**
- (3) The name of the person that appointed the individual as a watcher.**

(b) Watchers appointed under this chapter do not have a voice or vote in any proceeding of a precinct election board. The watchers may attend the election as witnesses only and are subject to the orders of the board.

(c) Except as provided in subsection (d), a watcher appointed under this chapter may photograph the proceedings of a precinct election board.

(d) A watcher appointed under this chapter may not photograph a voter:

- (1) while the voter is in the polls if the voter informs the precinct election board that the voter objects to being photographed by the watcher; or
- (2) in a manner that permits the watcher to see or know for what ticket, candidates, or public questions the voter has voted.

SECTION 17. IC 3-8-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If more than one (1) candidate from the same political party files a declaration of candidacy for the same office, that political party shall conduct:

- (1) a town convention under this chapter; or
- (2) a primary election;

to choose the nominee of that party for that office as provided in the ordinance adopted under section 2 of this chapter.

(b) If a town convention is required under subsection (a), the town chairman shall organize, conduct, and issue a call for a town convention to be held in the town, or, if there is no suitable location in the town, then either at the nearest available location within any county in which the town is located or at the county seat of any county in which the town is located.

(c) The convention must be held before August 21 in each year in which a municipal election is to be held. The purpose of the convention is to select the nominees for all town offices to be elected at the next municipal election and for which more than one (1) declaration of candidacy has been filed.

(d) The chairman shall file a notice of the call with the circuit court clerk of the county containing the greatest percentage of population of the town. The chairman shall also have notice of the call posted at least

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three (3) days in three (3) prominent public places in the town, including the office of the clerk-treasurer. The notice must state the time, place, and purpose of the convention.

(e) If the county chairman determines that an emergency requires the rescheduling of a town convention after notice has been given under subsection (d), the chairman shall promptly file a notice in the office of the county election board and in the office of the town clerk-treasurer stating the date, time, and place of the rescheduled convention.

SECTION 18. IC 3-8-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The town chairman and secretary of each town political party committee shall act as chairman and secretary of their respective conventions.

(b) As the first item of convention business, the town chairman shall make the initial determination regarding which individuals are eligible to vote in the town convention under section 11 of this chapter. If an individual objects to the determination of the chairman, the matter shall be put to the vote of all those individuals whose eligibility to vote is not in dispute.

(c) As the second item of convention business, the town chairman shall submit copies of proposed rules to the members of the convention for adoption. The rules must provide for at least the following:

- (1) The voting method to be used for nominating candidates at the convention.
- (2) The method to be used for resolving tie votes.
- (3) Any method for removing candidates from consideration by the convention if no candidate receives a majority vote from all voters casting a ballot at the convention.
- (4) The rights of nonvoting observers, media, candidate watchers, or others attending the convention.

(d) If the town chairman of the political party committee is unable or unwilling to act as chairman of the convention, the secretary acts as chairman until the convention elects a chairman of the convention from among the voters attending the convention. If the town secretary of the political party committee is unable or unwilling to act as secretary of the convention, the convention shall elect a secretary of the convention from among the voters attending the convention.

(e) After adoption of the convention rules, the convention may proceed to vote on the candidates to be nominated. The candidates for town offices must be nominated by a majority of the voters present and voting.

(f) The town convention may recess and reconvene if a majority

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1 of eligible voters at the convention adopt a motion to recess and
 2 reconvene. The motion must state the date, time, and location
 3 where the convention will reconvene. However, a convention may
 4 not reconvene on a date following the final date permitted for a
 5 convention to be convened under section 10 of this chapter.

6 SECTION 19. IC 3-8-6-5 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A petition of nomination
 8 must state all of the following:

9 (1) The name of each candidate as:

10 (A) the candidate wants the candidate's name to appear on the
 11 ballot; and

12 (B) the candidate's name is permitted to appear on the ballot
 13 under IC 3-5-7.

14 (2) The address of each candidate, including the mailing address,
 15 if different from the residence address of the candidate.

16 (3) The office that each candidate seeks.

17 (4) The information required under IC 3-10-4-5, if the petition
 18 nominates candidates for presidential electors.

19 (5) That the petitioners desire and are registered and qualified to
 20 vote for each candidate.

21 (6) Whether the candidate is affiliated with the same political
 22 party as any other candidate or group of candidates that has filed
 23 or will be filing a petition of nomination with the county voter
 24 registration office under section 10 of this chapter. This
 25 subdivision

26 ~~(A) applies after December 31, 2004; and~~

27 ~~(B) does not apply to an independent candidate.~~

28 (b) A petition of nomination must:

29 (1) designate a brief name of the political party that the candidates
 30 represent;

31 (2) indicate that the candidate is an independent candidate; or

32 (3) indicate that the candidates are an independent ticket.

33 (c) If a political party has previously filed a device with the election
 34 division under IC 3-8-7-11, the petition may incorporate that device by
 35 reference in the petition. If a political party has not previously filed a
 36 device under IC 3-8-7-11, or the petition is for an independent ticket,
 37 the petition of nomination may include a device for designating the
 38 party or ticket on the ballot.

39 SECTION 20. IC 3-10-1-12 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) **In those**
 41 **precincts where ballot card voting systems are to be used**, each
 42 county election board shall prepare and distribute separate primary

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1 ~~paper~~ ballots for each political party participating in a primary election
 2 **at least** equal in number to one hundred percent (100%) of the number
 3 of votes cast ~~by~~ **for the candidate of** the party **who received the**
 4 **greatest number of votes cast** in ~~each the~~ precinct at the last general
 5 election. ~~If voting machines, ballot card voting systems, or~~

6 **(b) In those precincts where** electronic voting systems are **to be**
 7 used, the board shall determine the number of ~~emergency paper~~ ballots
 8 **required** to be printed and furnished to the precincts **for emergency**
 9 **purposes only.**

10 SECTION 21. IC 3-10-1-31.1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.1. (a) This section
 12 applies only to election materials for elections held after December 31,
 13 2003.

14 (b) The inspector of each precinct shall deliver the bags required by
 15 section 30(a) and 30(c) of this chapter in good condition, together with
 16 poll lists, tally sheets, and other forms, to the circuit court clerk when
 17 making returns.

18 (c) Except for unused ballots disposed of under IC 3-11-3-31 or
 19 affidavits received by the county election board under IC 3-14-5-2 for
 20 delivery to the foreman of a grand jury, the circuit court clerk shall seal
 21 the ballots and other material during the time allowed to file a verified
 22 petition or cross-petition for a recount of votes or to contest the
 23 election. Except as provided in subsection (d), after the recount or
 24 contest filing period, the election material (except for ballots, which
 25 remain confidential) shall be made available for copying and inspection
 26 under IC 5-14-3. The circuit court clerk shall carefully preserve the
 27 sealed ballots and other material for twenty-two (22) months, as
 28 required by 42 U.S.C. 1974, after which the sealed ballots and other
 29 material are subject to IC 5-15-6 unless an order issued under:

30 (1) IC 3-12-6-19 or IC 3-12-11-16; or

31 (2) 42 U.S.C. 1973;

32 requires the continued preservation of the ballots or other material.

33 (d) If a petition for a recount or contest is filed, the material for that
 34 election remains confidential until completion of the recount or contest.

35 (e) ~~This subsection applies before January 1, 2006.~~ Upon delivery
 36 of the poll lists, the county voter registration office may unseal the
 37 envelopes containing the poll lists. For the purposes of:

38 (1) a cancellation of registration conducted under IC 3-7-43
 39 through IC 3-7-46;

40 (2) a transfer of registration conducted under IC 3-7-39,
 41 IC 3-7-40, or IC 3-7-42;

42 (3) a change of name made under IC 3-7-41;

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- 1 (4) adding the registration of a voter under IC 3-7-48-8; or
 2 (5) recording that a voter subject to IC 3-7-33-4.5 submitted the
 3 documentation required under 42 U.S.C. 15483 and IC 3-11-8 or
 4 IC 3-11-10;

5 the county voter registration office may inspect the poll lists and update
 6 the registration record of the county. The county voter registration
 7 office shall use the poll lists to update the registration record to include
 8 the voter's voter identification number if the voter's voter identification
 9 number is not already included in the registration record. Upon
 10 completion of the inspection, the poll list shall be preserved with the
 11 ballots and other materials in the manner prescribed by subsection (c)
 12 for the period prescribed by subsections (c) and (d).

13 ~~(f) This subsection applies after December 31, 2005: Upon delivery~~
 14 ~~of the poll lists, the county voter registration office may unseal the~~
 15 ~~envelopes containing the poll lists. For purposes of:~~

- 16 ~~(1) a cancellation of registration conducted under IC 3-7-43~~
 17 ~~through IC 3-7-46;~~
 18 ~~(2) a transfer of registration conducted under IC 3-7-39,~~
 19 ~~IC 3-7-40, or IC 3-7-42;~~
 20 ~~(3) a change of name made under IC 3-7-41; or~~
 21 ~~(4) adding the registration of a voter under IC 3-7-48-8;~~

22 the county voter registration office may inspect the poll lists and update
 23 the registration record of the county. The county voter registration
 24 office shall use the poll lists to update the registration record to include
 25 the voter's current voter identification number if the voter's voter
 26 identification number is not included in the registration record. Upon
 27 completion of the inspection, the poll list shall be preserved with the
 28 ballots and other materials in the manner prescribed by subsection (c)
 29 for the period prescribed by subsections (c) and (d):

30 ~~(g) (f)~~ This subsection does not apply to ballots. Notwithstanding
 31 subsection (c), if a county voter registration office determines that the
 32 inspection and copying of precinct election material would reveal the
 33 political parties, candidates, and public questions for which an
 34 individual cast an absentee ballot, the county voter registration office
 35 shall keep confidential only that part of the election material necessary
 36 to protect the secrecy of the voter's ballot.

37 ~~(h) (g)~~ After the expiration of the period described in subsection (c)
 38 or (d), the ballots may be destroyed in the manner provided by
 39 IC 3-11-3-31 or transferred to a state educational institution as
 40 provided by IC 3-12-2-12.

41 SECTION 22. IC 3-10-7-22 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) A town election

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board shall appoint a precinct election board for each precinct in the town.

(b) If a precinct is wholly or partly in the town, the town election board may designate the polls for the precinct to be at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct.

(c) If a precinct election board administers more than one (1) precinct under subsection (b), the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

~~(c)~~ (d) Each precinct election board consists of:

(1) one (1) inspector; and

(2) two (2) judges of opposite political parties.

(e) The members of a precinct election board must be voters who reside in the town.

SECTION 23. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a school board office;

or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. If the board has adopted a

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resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board. A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

(4) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 24. IC 3-10-12-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. (a) This section applies to a voter who:**

(1) changes residence from a precinct in a county to another precinct:

(A) in the same county; and

(B) in the same congressional district;

as the former precinct; and

(2) does not notify the county voter registration office of the change of address before election day.

(b) A voter described by subsection (a) may:

(1) correct the voter registration record; and

(2) vote in the precinct where the voter formerly resided;

if the voter makes an oral affirmation as described in subsection (e) or a written affirmation as described in section 4 of this chapter of the voter's current residence address.

(c) A voter who moved outside of a municipality may not return to the precinct where the voter formerly resided to vote in a municipal election.

(d) A voter who moved from a location outside a municipality to a location within a municipality within thirty (30) days before a:

(1) municipal primary election;

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1 (2) municipal election; or
 2 (3) special election held only within the municipality;
 3 may not vote in the election in the precinct of the person's former
 4 residence.

5 (e) A voter entitled to make a written affirmation under
 6 subsection (b) may make an oral affirmation. The voter must make
 7 the oral affirmation before the poll clerks of the precinct. After the
 8 voter makes an oral affirmation under this subsection, the poll
 9 clerks shall:

10 (1) reduce the substance of the affirmation to writing at an
 11 appropriate location on the poll list; and

12 (2) initial the affirmation.

13 SECTION 25. IC 3-10-12-3.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. After
 15 December 31, 2005, the written affirmation described in ~~section 3~~
 16 **section 3.4** of this chapter must include the person's voter identification
 17 number to permit transfer of the registration under IC 3-7-13-13.

18 SECTION 26. IC 3-10-12-4 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The written
 20 affirmation described in ~~section 3~~ **section 3.4** of this chapter may be
 21 executed as follows:

22 (1) At the ~~office of the circuit court clerk or the board of county~~
 23 **voter registration office** for the county of the precinct of the
 24 person's former residence, not later than 4 p.m. on the day before
 25 the election.

26 (2) Before the inspector of the precinct of the person's former
 27 residence, if the application and statement are executed on the day
 28 of the election.

29 (3) When the application for an absentee ballot is filed with the
 30 county election board of the county of the precinct of the person's
 31 former residence.

32 (b) If the person executes the affidavit under this section at the
 33 ~~office of the circuit court clerk or board of county voter~~ registration
 34 **office** before the day of the election, the ~~clerk or board office~~ shall
 35 furnish a copy of the affirmation to the person. The person shall present
 36 the copy to the inspector of the precinct of the person's former
 37 residence when the person offers to vote in that precinct under
 38 IC 3-11-8.

39 (c) If the person executes the affirmation under this section when
 40 filing an application for an absentee ballot, the county election board
 41 shall attach the original or a copy of the affirmation to the person's
 42 application for an absentee ballot before the application and ballot are

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delivered to the inspector of the precinct of the person's former residence.

(d) If the person executes the affirmation under this section before the inspector of the precinct of the person's former residence on the day of the election, the inspector shall return the original affirmation to the circuit court clerk or board of county election board. The county election board shall forward the affidavit to the county voter registration office after the closing of the polls.

SECTION 27. IC 3-11-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The nominees of a:

(1) major political party;

(2) political party described by IC 3-8-4-10; or

(3) group of petitioners under IC 3-8-6 who are identified by the petition as the nominees of a political party;

shall be listed on the ballots under the name and device of the party or petitioners as designated by them in their certificate or petition. or if none is designated, then under some suitable name and device. If the same device for designating candidates is selected by two (2) parties or groups of petitioners, it shall be given to the one (+) party that first selected it; and a suitable filed the device shall be selected for the other party or group of petitioners. under IC 3-8-7-11.

SECTION 28. IC 3-11-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) The sealed package of paper ballots, provisional ballots, sample ballots, and any other supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, the ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) In those precincts where ballot card voting systems are to be used, the number of ballots at least equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where voting machines, ballot card systems, or electronic voting systems are to be used, the number of paper ballots that will be required to be printed and furnished to the precincts for emergency purposes only.

(C) Provisional ballots in the number considered necessary by

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1 the county election board.

2 (4) Twenty (20) ink pens suitable for printing the names of

3 write-in candidates on the ballot or ballot envelope.

4 (5) Copies of the voter's bill of rights for posting as required by 42

5 U.S.C. 15482.

6 (6) Copies of the instructions for a provisional voter required by

7 42 U.S.C. 15482. The county election board shall provide at least

8 the number of copies of the instructions as the number of

9 provisional ballots provided under subdivision (3).

10 SECTION 29. IC 3-11-8-3 IS AMENDED TO READ AS

11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Before each

12 election each county executive shall secure for each precinct of the

13 county an accessible facility in which to hold the election.

14 (b) If an accessible facility is not available within the precinct, then

15 the polls may be located in a public building in an adjoining another

16 precinct **in the county** if the public building is: **polls are:**

17 (1) either:

18 (A) not more than ~~one (1)~~ **five (5) miles** from the closest

19 boundary of the precinct for which it is the polls; or

20 (B) located in the same township as the precinct that does not

21 have an accessible facility available; and

22 (2) **located in** an accessible facility.

23 (c) If the county election board, by a unanimous vote of its entire

24 membership, determines that an accessible facility is not available

25 under subsection (b), the board may locate the polls in the most

26 convenient available accessible facility in the county.

27 **(d) If the county election board, by unanimous vote of its entire**

28 **membership, determines that:**

29 **(1) an accessible facility is not available under subsection (b)**

30 **or (c); and**

31 **(2) the most convenient accessible facility is located in an**

32 **adjoining county;**

33 **the board may locate the polls in the facility described in**

34 **subdivision (2) with the unanimous consent of the entire**

35 **membership of the county election board of the county in which the**

36 **facility is located.**

37 SECTION 30. IC 3-11-8-4.3 IS AMENDED TO READ AS

38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.3. (a) If the county

39 election board adopts an order by the unanimous vote of the entire

40 membership of the board, the county executive may locate the polls for

41 the precinct at the polls for an adjoining precinct, using the precinct

42 election board of the adjoining precinct.

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(b) An order adopted under this section expires December 31 after the date the order was adopted.

(c) **If a precinct election board administers more than one (1) precinct under this section, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.**

SECTION 31. IC 3-11-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. In preparing the polls for an election, the county executive shall:

(1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the voting machines, ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) provide a **method or material for designating the boundaries of the chute, with such as** a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held.

SECTION 32. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

(1) Members of a precinct election board.

(2) Poll clerks and assistant poll clerks.

(3) Election sheriffs.

(4) Deputy election commissioners.

(5) Pollbook holders **and challengers.**

(6) Watchers.

(7) Voters for the purposes of voting.

(8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29.

(9) An assistant to a precinct election officer appointed under IC 3-6-6-39.

(10) An individual authorized to assist a voter in accordance with IC 3-11-9.

(11) A member of a county election board, acting on behalf of the

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(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).

(13) Either of the following who have been issued credentials signed by the members of the county election board:

(A) The county chairman of a political party.

(B) The county vice chairman of a political party.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 33. IC 3-11-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. ~~Challengers appointed under IC 3-6-7 are entitled to stand at the sides of the chute next to the entrance to the polls; as provided in IC 3-6-7-2: No other A~~ person may **not** remain within a distance equal to the length of the chute (as defined in IC 3-5-2-10) of the entrance to the polls except for the purpose of offering to vote.

SECTION 34. IC 3-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

- (1) securely lock the box;
- (2) give one (1) key to the judge of the opposite political party;
- and
- (3) retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is

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ready to immediately proceed with the counting, except as otherwise provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret.

SECTION 35. IC 3-11-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement. The officers then shall certify that the marking device and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 36. IC 3-11-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 37. IC 3-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This chapter:

- (1) is enacted to comply with 42 U.S.C. 15481 by establishing

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uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot; and

(2) applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. ~~The board shall begin by counting the state paper ballots and shall complete the count of the state paper ballots before counting the local paper ballots.~~ The ballots shall be counted by laying each ballot upon a table in the order in which it is taken from the ballot box.

(c) Notwithstanding subsection (b), the precinct election board may count absentee ballots before the polls have closed. If the precinct election board counts absentee ballots under this subsection, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question; on absentee ballots counted under this subsection.

(d) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

SECTION 38. IC 3-12-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of votes by absentee and provisional voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating

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1 in the county.

2 **(d) If a precinct election board administers more than one (1)**
 3 **precinct, the precinct election board or circuit court clerk shall**
 4 **keep the ballots cast in each precinct separate from ballots cast in**
 5 **any other precinct, so that the votes cast for each candidate and on**
 6 **each public question in each of the precincts administered by the**
 7 **board may be determined.**

8 SECTION 39. IC 3-12-3.5-3 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** When paper vote
 10 total printouts have been obtained, the precinct election board shall
 11 prepare certificates stating the number of votes that each candidate
 12 received for each office and the votes on each public question by
 13 attaching the paper vote total printouts to certificate forms supplied by
 14 the county election board.

15 **(b)** Each member of the board shall be given a copy of the
 16 certificate.

17 **(c) If a precinct election board administers more than one (1)**
 18 **precinct, the board shall keep the ballots cast in each precinct**
 19 **separate from ballots cast in any other precinct, so that the votes**
 20 **cast for each candidate and on each public question in each of the**
 21 **precincts administered by the board may be determined.**

22 SECTION 40. IC 3-12-9-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a tie
 24 vote at an election for:

- 25 (1) a federal office;
 26 (2) a state office (other than governor and lieutenant governor);
 27 **or**
 28 (3) a legislative office;
 29 ~~(4) a circuit office; or~~
 30 ~~(5) a school board office not covered under IC 20-4-1 or~~
 31 ~~IC 20-4-8;~~

32 occurs, a special election shall be held.

33 (b) Whenever a tie vote occurs at a primary election for the
 34 nomination of a candidate to be voted for at the general or municipal
 35 election, IC 3-13-1-17 applies.

36 SECTION 41. IC 3-12-9-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Whenever a circuit
 38 court clerk receives certification that a tie vote at an election for a local
 39 office ~~(other than a circuit office)~~ **or a school board office** occurred,
 40 the clerk shall immediately send a written notice of the tie vote to:

- 41 (1) the fiscal body of the affected political subdivision; **or**
 42 (2) **if the tie vote occurred in an election for a circuit office in**

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1 **a circuit that includes more than one county, to the fiscal body**
 2 **of each county of the circuit.**

3 SECTION 42. IC 3-12-9-4 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The fiscal body
 5 of a political subdivision that receives notice under section 3 of this
 6 chapter shall resolve the tie vote by electing a person to fill the office
 7 not later than December 31 following the election **(or not later than**
 8 **June 30 following the election of a school board member in May)**
 9 at which the tie vote occurred. The fiscal body shall select one (1) of
 10 the candidates who was involved in the tie vote to fill the office.

11 **(b) If a tie vote has occurred in an election for a circuit office in**
 12 **a circuit that contains more than one (1) county, the fiscal bodies**
 13 **of the counties shall meet in joint session at the county seat of the**
 14 **county that contains the greatest percentage of population of the**
 15 **circuit to select one (1) of the candidates who was involved in the**
 16 **tie vote in order to fill the office in accordance with this section.**

17 (c) If a tie vote has occurred for the election of more than one (1)
 18 at-large seat on a legislative or fiscal body, the fiscal body shall select
 19 the number of individuals necessary to fill each of the at-large seats for
 20 which the tie vote occurred. However, a member of a fiscal body who
 21 runs for reelection and is involved in a tie vote may not cast a vote
 22 under this section.

23 ~~(b)~~ **(d)** The executive of the political subdivision (other than a town
 24 **or a school corporation)** may cast the deciding vote to break a tie vote
 25 in a fiscal body acting under this section. The clerk-treasurer of the
 26 town may cast the deciding vote to break a tie vote in a town fiscal
 27 body acting under this section. **A tie vote in the fiscal body of a**
 28 **school corporation under this section shall be broken under**
 29 **IC 20-4-1-26.5 or IC 20-4-8-8.**

30 SECTION 43. IC 3-13-1-2.5 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2005]: **Sec. 2.5. A candidate seeking to fill a candidate vacancy**
 33 **under this chapter must comply with the requirements imposed**
 34 **under IC 3-8-1 for the office.**

35 SECTION 44. IC 3-13-1-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) To be eligible
 37 to participate in a caucus called under section 7 of this chapter, an
 38 elected precinct committeeman must be entitled to vote for the office
 39 for which a candidate is to be selected. An elected precinct
 40 committeeman is eligible to participate in a caucus called under this
 41 chapter, regardless of when the ballot vacancy occurred.

42 (b) An appointed precinct committeeman is eligible to participate

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in a caucus called under section 7 of this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred.

(c) For purposes of a candidate vacancy resulting from the failure of a candidate to be nominated at a primary at which precinct committeemen were elected, an appointed precinct committeeman is eligible to serve if the committeeman has been reappointed following the primary in accordance with the rules of the committeeman's political party.

SECTION 45. IC 3-13-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) This section applies to a political party subject to IC 3-8-4-10, **IC 3-10-2-15, or IC 3-10-6-12.**

(b) A candidate vacancy that exists following the convention of the party shall be filled by the state committee of the political party not later than ~~noon June 30 before election day~~ **the date and time specified by section 7(a)(1) of this chapter for a major political party to fill a candidate vacancy.** The chairman of the state committee shall file a notice of intent to fill the candidate vacancy with the official who is required to receive a certificate of candidate selection under section 15 of this chapter. The notice must be filed not later than ten (10) days before the chairman fills the candidate vacancy. The chairman of the state committee shall act in accordance with section 15 of this chapter to certify the candidate selected to fill the vacancy.

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the general election ballot resulting from the failure of the convention to nominate a candidate for an office. The certificate required by subsection (b) shall be filed not later than ~~noon July 3 before election day~~ **the date and time specified by section 15(c) of this chapter for a major political party to file a certificate of candidate selection.**

(d) This subsection applies to all candidate vacancies not described by subsection (c). **If a candidate vacancy occurs as a result of:**

- (1) the death of a candidate;**
- (2) the withdrawal of a candidate;**
- (3) the disqualification of a candidate under IC 3-8-1-5; or**
- (4) a court order issued under IC 3-8-7-29(d);**

the political party may fill the vacancy within the same period of time that a major political party is permitted to fill a candidate vacancy under section 7(b) of this chapter.

(e) The certificate required by subsection (b) shall be filed ~~not more~~

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1 than three (3) days (excluding Saturdays and Sundays) within the
 2 period of time required under section 15(d) of this chapter for a
 3 major political party to file the certificate after selection of the
 4 candidates.

5 SECTION 46. IC 3-13-2-1.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2005]: **Sec. 1.5. A candidate seeking to fill a candidate vacancy**
 8 **under this chapter must comply with the requirements imposed**
 9 **under IC 3-8-1 for the office.**

10 SECTION 47. IC 3-14-5-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This section
 12 applies during an election whenever a voter makes an affidavit before
 13 the inspector in a precinct that a person who has voted is an illegal
 14 voter in the precinct. **This section does not apply to an affidavit**
 15 **executed by an individual who:**

- 16 (1) is subject to the requirements set forth in IC 3-7-33-4.5;
- 17 (2) is challenged solely as a result of the individual's inability
- 18 or refusal to comply with IC 3-7-33-4.5; and
- 19 (3) subsequently complies with IC 3-7-33-4.5 before the close
- 20 of the polls on election day.

21 (b) Immediately after the close of the polls the inspector shall
 22 deliver the affidavit to the **county election board for delivery by the**
 23 **prosecuting attorney for the county who to the grand jury under**
 24 **section 2 of this chapter. The prosecuting attorney for the county**
 25 **shall:**

- 26 (1) proceed as if the affidavit had been made before the
- 27 prosecuting attorney; and
- 28 (2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official
- 29 **under section 2 of this chapter** if a violation of NVRA appears
- 30 to have occurred.

31 SECTION 48. IC 3-14-5-2 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Each precinct
 33 election board shall, at the close of the polls, place all affidavits
 34 prescribed by this title for use on election day to determine the
 35 eligibility of a precinct election officer (or a person who wishes to cast
 36 a ballot) in a strong paper bag or envelope and securely seal it. Each
 37 member shall endorse that member's name on the back of the bag or
 38 envelope.

39 (b) The inspector and judge of the opposite political party shall
 40 deliver the **sealed** bag or envelope to the county election board. ~~whose~~
 41 **duty it is to The county election board shall do the following:**

- 42 (1) Remove the affidavits from the bag or envelope.

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(2) Mail a copy of each affidavit to the secretary of state.

(3) Replace the affidavits within the bag or envelope.

(4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.

(5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:

(1) the court; and

(2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 49. IC 20-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The six (6) members who are elected for a position on the governing body described under section 3(b)(1) of this chapter are determined as follows:

(1) Each candidate must file a nomination petition with the clerk of the circuit court at least board of elections and registration not earlier than one hundred four (104) days and not later than noon seventy-four (74) days before the election at which the members are to be elected and that includes the following information:

(A) The name of the candidate.

(B) The district in which the candidate resides.

(C) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(D) The fact that the candidate is running for a district position.

(E) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the district may vote for a candidate.

(3) The candidate within each particular district who receives the greatest number of votes within the district is elected.

(b) The member who is elected for a position on the governing body described under section 3(b)(2) of this chapter is determined as follows:

(1) Each candidate must file a nomination petition with the clerk

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of the circuit court at least seventy-four (74) days before the election at which the at-large member is to be elected. The petition must include the following information:

- (A) The name of the candidate.
- (B) The signatures of at least one hundred (100) registered voters residing within the school corporation.
- (C) The fact that the candidate is running for the at-large position on the governing body.
- (D) A certification that the candidate meets the qualifications for candidacy imposed by this chapter.

(2) Only eligible voters residing in the school corporation may vote for a candidate.

(3) The candidate who:

- (A) runs for the at-large position on the governing body; and
 - (B) receives the greatest number of votes within the school corporation;
- is elected to the at-large position.

SECTION 50. IC 20-3-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. To be eligible to be a candidate for the governing body under this chapter, the following apply:

(1) Each prospective candidate must file a nomination petition with the ~~clerk of the circuit court~~ **at least board of elections and registration not earlier than one hundred four (104) days and not later than noon** seventy-four (74) days before the primary election at which the members are to be elected that includes the following information:

- (A) The name of the prospective candidate.
- (B) Whether the prospective candidate is a district candidate or an at-large candidate.
- (C) A certification that the candidate meets the qualifications for candidacy imposed under this chapter.
- (D) The signatures of at least one hundred (100) registered voters residing within the school corporation.

(2) Each prospective candidate for a district position must:

- (A) reside within the district; and
- (B) have resided within the district for at least the three (3) years immediately preceding the election.

(3) Each prospective candidate for an at-large position must:

- (A) reside within the boundaries of the school corporation; and
- (B) have resided within the boundaries of the school corporation for at least the three (3) years immediately

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preceding the election.

(4) Each prospective candidate (regardless of whether the candidate is a district candidate or an at-large candidate) must:

(A) be a registered voter and must have been a registered voter for at least the three (3) years immediately preceding the election; and

(B) be a high school graduate or have received a:

(i) high school equivalency certificate; or

(ii) state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.

(5) A prospective candidate may not:

(A) hold any other elective or appointive office; or

(B) have a pecuniary interest in any contract with the school corporation or its governing body;

as prohibited by law.

SECTION 51. IC 20-4-1-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26.5. (a) This section applies to each school corporation, whenever created.

(b) If the board of school trustees is to be elected at the primary election, each registered voter may vote in the board of school trustee election without otherwise voting in the primary election.

(c) If a tie vote occurs among any of the candidates, the ~~judge of the circuit court, or in case of a united school corporation, the judge of the circuit court of the county having the most pupils enrolled in the united school corporation, shall select one (1) of the candidates who shall be declared and certified elected. tie vote shall be resolved under IC 3-12-9-4.~~

(d) If after the first board of school trustees takes office, there is a vacancy on the board of school trustees for any reason, including the failure of the sufficient number of petitions for candidates being filed, and whether the vacating member was elected or appointed, the remaining members of the board of school trustees, whether or not a majority of the board, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation, with the residence and other qualifications provided for a regularly elected or appointed board member filling the office, to serve for the term or balance of terms respectively. If a tie vote occurs among the ~~remaining~~ members of the board **under this subsection or IC 3-12-9-4**, or the board fails to act within thirty (30) days after any vacancy occurs, the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.

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(e) A vacancy in the board of trustees occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district of the school corporation from which the member was elected or appointed as long as the member continues to be a resident of the school corporation.

(f) At the first primary or general election in which members of the board of school trustees are elected, a simple majority of the candidates elected as members of the board of school trustees who receive the highest number of votes shall be elected for four (4) year terms. The balance of the candidates elected as members of the board of school trustees receiving the next highest number of votes shall be elected for two (2) year terms. Thereafter, all school board members shall be elected for four (4) year terms.

(g) Board members elected in November take office and assume their duties on January 1 or July 1 after their election, as determined by the board of school trustees before the election. Board members elected in May take office and assume their duties on July 1 after their election.

SECTION 52. IC 20-4-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) At the time provided by IC 3-8-2-4 for filing a declaration of candidacy for the primary election next following the creation of the county school corporation as provided in this chapter, nominations for members of the board of education of said county school corporation shall be made by a petition signed by the nominee and ten (10) voters of the county residing in the same board member district as the nominee, which shall be filed with the clerk of the circuit court in the respective county. Such nominations shall be listed by board member districts on the primary election ballot as prescribed by IC 3-10-1-19, but without party designation.

(b) Voting and tabulation of votes shall be conducted in the same manner as in primary elections under IC 3-10-1. The candidates elected from each board member district and at large shall be the persons having the greatest number of votes. If in the first election more than two (2) candidates in any one (1) board member district shall be among those who received the greatest number of votes or if in any subsequent election more than one (1) person shall be among those who received the greatest number of votes, then the candidate or candidates respectively receiving the next greatest number of votes in other board member districts respectively shall be declared elected. ~~in the event of~~ **If a tie vote occurs among any of the candidates, the tie vote shall be resolved under IC 3-12-9-4. If a tie vote for any of said candidates, occurs when the fiscal body acts under IC 3-12-9-4,** the judge of the

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1 circuit court shall select one (1) of said candidates who shall be
2 declared and certified elected.

3 (c) If at any time there shall occur a vacancy or vacancies on the
4 board for any reason including the failure of the sufficient number of
5 petitions for candidates being filed, it shall be the duty of the judge of
6 the circuit court to fill said vacancies by appointing a person or persons
7 from the respective board member district or districts to serve for the
8 term or balance of terms respectively.

9 (d) At the first primary election wherein members of the county
10 board of education shall be elected, the three (3) candidates who
11 receive the highest number of votes in each of the respective board
12 member districts shall be elected for four (4) year terms and the two (2)
13 candidates from different districts receiving the next highest number
14 of votes respectively shall be elected for two (2) year terms. All
15 candidates for membership on the county board of education shall be
16 voted upon by the voters in the county school corporation district only
17 and shall be elected for four (4) year terms after the first election and
18 shall take office and assume their duties one (1) week after their
19 election.

20 SECTION 53. [EFFECTIVE UPON PASSAGE] (a) **This**
21 **SECTION applies to an individual appointed to serve as a precinct**
22 **election officer under IC 3-6-6-39.**

23 (b) **The secretary of state and election division may establish**
24 **guidelines for an individual to serve in a nonpartisan manner. The**
25 **guidelines adopted under this SECTION expire when the standards**
26 **developed by the Help America Vote Foundation under 36 U.S.C.**
27 **152602 for this purpose become effective.**

28 (c) **This SECTION expires January 1, 2009.**

29 SECTION 54. THE FOLLOWING ARE REPEALED [EFFECTIVE
30 UPON PASSAGE]: IC 3-6-5.1-1; IC 3-6-7-2; IC 3-10-12-3;
31 IC 3-11-8-28; IC 3-11.5-5-4; IC 3-11.7-5-6.

32 SECTION 55. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 341, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 11, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 21. IC 3-10-1-31.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.1. (a) This section applies only to election materials for elections held after December 31, 2003.

(b) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

(c) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots and other material during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (d), after the recount or contest filing period, the election material (except for ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 42 U.S.C. 1974, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:

- (1) IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(d) If a petition for a recount or contest is filed, the material for that election remains confidential until completion of the recount or contest.

(e) ~~This subsection applies before January 1, 2006.~~ Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;
- (3) a change of name made under IC 3-7-41;
- (4) adding the registration of a voter under IC 3-7-48-8; or
- (5) recording that a voter subject to IC 3-7-33-4.5 submitted the

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documentation required under 42 U.S.C. 15483 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d).

~~(f)~~ This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

- ~~(1)~~ a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- ~~(2)~~ a transfer of registration conducted under IC 3-7-39; IC 3-7-40; or IC 3-7-42;
- ~~(3)~~ a change of name made under IC 3-7-41; or
- ~~(4)~~ adding the registration of a voter under IC 3-7-48-8;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be preserved with the ballots and other materials in the manner prescribed by subsection (c) for the period prescribed by subsections (c) and (d):

~~(g)~~ **(f)** This subsection does not apply to ballots. Notwithstanding subsection (c), if a county voter registration office determines that the inspection and copying of precinct election material would reveal the political parties, candidates, and public questions for which an individual cast an absentee ballot, the county voter registration office shall keep confidential only that part of the election material necessary to protect the secrecy of the voter's ballot.

~~(h)~~ **(g)** After the expiration of the period described in subsection (c) or (d), the ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12."

Page 13, line 33, strike "office of the circuit court clerk or the board of" and insert "**county voter**".

Page 13, line 34, after "registration" insert "**office**".

Page 14, line 1, strike "office of the circuit court clerk or board of"

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and insert "**county voter**".

Page 14, line 1, after "registration" insert "**office**".

Page 14, line 2, strike "clerk or board" and insert "**office**".

Page 14, line 15, strike "circuit court clerk or board of" and insert "**county election board. The county election board shall forward the affidavit to the county voter**".

Page 14, line 15, after "registration" insert "**office**".

Page 14, line 17, after "The" delete ":".

Page 14, line 18, delete "(1)".

Page 14, line 18, after "a" insert ":

(1)".

Page 14, run in lines 17 through 18.

Page 19, line 13, strike "The board shall begin by counting the state paper".

Page 19, strike line 14.

Page 19, line 15, strike "counting the local paper ballots."

Page 23, line 22, after "who" insert ":

(1)".

Page 23, line 23, delete "IC 3-7-33-4.5 and" and insert "**IC 3-7-33-4.5;**

(2)".

Page 23, line 24, delete "IC 3-7-33-4.5." and insert "**IC 3-7-33-4.5;**
and

(3) subsequently complies with IC 3-7-33-4.5 before the close of the polls on election day."

Page 28, line 35, delete "IC 3-11-8-28." and insert "IC 3-11-8-28; IC 3-11.5-5-4; IC 3-11.7-5-6."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 341 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

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